



(BILLING CODE: 3510-DS-P)

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

Diamond Sawblades and Parts Thereof from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Sunset Review, Notice of Rescission of Sunset Review, and Advance Notification of New Sunset Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

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Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), the Department of Commerce (the Department) and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

In December 2013, the Department initiated a sunset review of the antidumping duty order on diamond sawblades and parts thereof from the People's Republic of China five years from the imposition of the order in January 2009.<sup>1</sup> On July 11, 2014, The Department published the *2014 Sunset Review*.<sup>2</sup> Notwithstanding the holding of the United States Court of Appeals for

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<sup>1</sup> See *Initiation of Five-year ("Sunset") Review*, 78 FR 72061 (December 2, 2013) (*Initiation Notice*).

<sup>2</sup> See *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 79 FR 40062 (July 11, 2014) (*2014 Sunset Review*).

the Federal Circuit (CAFC) that “the statutory scheme impose{d} a mandatory duty on Commerce to issue antidumping duty orders covering the subject entries” as of January 2009,<sup>3</sup> the U.S. Court of International Trade (CIT) held, on September 23, 2014, that the *2014 Sunset Review* was unlawful and premature, agreeing with the plaintiff that the five-year period should have been counted from November 2009. Thus, the CIT ordered the Department to rescind the *2014 Sunset Review* and to re-initiate the sunset review of the antidumping duty order on diamond sawblades and parts thereof from the People’s Republic of China on November 4, 2014.<sup>4</sup>

Consistent with the decision of the CAFC in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades*, the Department is notifying the public that the final judgment in this case is not in harmony with the Department's *2014 Sunset Review*. The Department is therefore rescinding the *2014 Sunset Review*.

#### Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC has held that, pursuant to section 516A(c)(1) of the Tariff Act of 1930, as amended, the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT's September 23, 2014, judgment constitutes a final decision of that court that is not in harmony with the Department’s *2014 Sunset Review*. This notice is published in fulfillment of the publication requirements of *Timken*. The effective date of this *Timken* notice is October 3, 2014.

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<sup>3</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374, 1382-1383 (Fed. Cir. 2010) (*Diamond Sawblades*).

<sup>4</sup> See *Diamond Sawblades Manufacturers’ Coalition v. United States*, Court No. 13-00391, slip op. 2014-111, 2014 Ct. Intl. Trade LEXIS 112 (Ct. Int’l Trade Sep. 23, 2014) (*Diamond Sawblades Manufacturers’ Coalition*).

### Rescission of the 2014 Sunset Review

Pursuant to the CIT order in *Diamond Sawblades Manufacturers' Coalition*, we are hereby rescinding the 2014 Sunset Review, effective September 23, 2014.

### Upcoming Sunset Review for November 2014 Pursuant to the CIT Order

Pursuant to the CIT order in *Diamond Sawblades Manufacturers' Coalition*, the first sunset review of the antidumping duty order on diamond sawblades and parts thereof from the People's Republic of China is now scheduled for initiation on November 4, 2014 and will appear in a notice of *Initiation of Five-Year ("Sunset") Review (Notice of Initiation)*.

The Department's procedures for the conduct of a sunset review are set forth in 19 CFR 351.218. The *Notice of Initiation* provides further information regarding what is required of all parties to participate in the sunset review.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for this sunset review. To facilitate the timely preparation of the service list, it is requested that those seeking recognition as interested parties to this sunset review contact the Department in writing within 10 days of the publication of the *Notice of Initiation*.

If the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the sunset review will continue. Thereafter, any interested party wishing to participate in the sunset review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

We are publishing this notice pursuant to the CIT order in *Diamond Sawblades Manufacturers' Coalition* for the rescission of the *2014 Sunset Review* and as a service to the international trading community for the advance notification of the re-initiation of the sunset review. The advanced notification of a sunset review is not required by statute.

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

October 16, 2014 \_\_\_\_\_  
Date

[FR Doc. 2014-25206 Filed 10/21/2014 at 8:45 am; Publication Date: 10/22/2014]